

Business/Farm/NPO Relocation Assistance Program Questions and Answers

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Americans with Disabilities Act (ADA) Information

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Introduction

The Relocation Assistance Program is designed to establish a uniform policy to help minimize any hardships you may experience as a result of your move.

This booklet is designed to answer some of your questions about your relocation entitlements. Specific information about relocation assistance is contained in the law. While every effort has been made to assure the accuracy of this booklet, it does not have the force and effect of the law. Should any difference or error occur, the law will take precedence. The law is contained in Chapter 8.26 of the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC) 468-100.

Your concerns are important to us. We will do everything we can to minimize any disruptions and other impacts of the project. Thank you for taking the time to read this booklet. We appreciate your understanding and cooperation.

The Uniform Act (defined on page 7) provides for certain relocation payments and advisory assistance for businesses.

If You Have to Move . . .

Whenever property is needed for a transportation facility, it is necessary to acquire property from someone. We wish it were possible to locate a transportation facility without causing inconvenience for you or your neighbors. However these acquisitions make it necessary for the occupants of the properties to move.

Please do not move until you discuss your moving plans with your relocation specialist. Before moving, you will need to sign a “Moving Expense Agreement.”

If you move without signing a Moving Expense Agreement, you may jeopardize your entitlement to relocation assistance.

General Relocation

When do I become eligible for relocation assistance?

You will become eligible for relocation assistance on the day the AGENCY makes a written offer to buy the property you are occupying, if the agency determines that there are persons or personal property, which must be moved.

When do I have to move?

You cannot be required to move unless given a written assurance at least 90 days prior to the date by which you will be required to vacate the property. In most cases, the AGENCY will provide this assurance in the relocation letter entitled, “Notice of Relocation Eligibility, Entitlements, and 90-Day Assurance.” If occupancy of the property beyond the date the state acquires possession is allowed, you will be required to sign a rental agreement and pay rent.

It is our policy to work with you to enable you to move with the least amount of disruption to your operation.

Are relocation payments considered income?

Relocation payments are not considered as income for the purpose of the Internal Revenue Code of 1986.

When do I get paid for my relocation benefits?

In most cases, you will be reimbursed for relocation expenses after you have moved or incurred an eligible expense. In some cases, progress payments can be made if the agency determines it is necessary.

If I move before the agency’s written offer, am I eligible for relocation assistance?

You may jeopardize your relocation rights unless you have reached a prior written agreement with the agency.

How long do I have to claim my relocation benefits?

All claims for a relocation payment shall be filed with the AGENCY within 18 months after:

- If you are a tenant — the date you move from the acquired property.
- If you are an owner — the latter of the date you move or the date you receive final payment for your property.

Definitions

What is a business?

The term “business” means any lawful activity, except a farm operation, that is conducted:

1. Primarily for (a) the purchase, sale, lease, or rental of personal or real property; (b) the manufacture, processing, or marketing of products, commodities, or any other personal property; or (c) any combination of these activities;
2. Primarily for the sale of services to the public;
3. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
4. By a nonprofit organization that has established its nonprofit status under applicable federal or state law.

How do I qualify as a business?

In order to qualify to receive relocation assistance as a business displacement, you must:

1. Meet the definition of a business.
2. Report income on an annual tax return.

What is a farm operation?

The term “farm operation” means any activity conducted solely or primarily for the production and/or sale of one or more agricultural products or commodities, including timber, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

What is a nonprofit organization?

The term “nonprofit organization” means an organization that is incorporated under the applicable laws of a state as a nonprofit organization, and exempt from paying federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501).

What is the Uniform Act?

The term “Uniform Act” means the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; Pub. L. 91-646), and amendments thereto.

Relocation Advisory Assistance

What is “Relocation Advisory Assistance?”

Your relocation specialist will interview you to:

- Explain relocation assistance and payments available, eligibility requirements, and procedures for obtaining assistance.
- Determine the relocation needs and preference for your operation.
- Provide advice as to other sources of assistance and technical help.

Will the agency find a replacement site for my business?

A relocation specialist will provide information on the availability, purchase price, and rental costs of suitable commercial and farm properties and locations and/or refer you to real property specialists in your area. The relocation specialist will assist a business or farm operation to become established in a replacement location.

It is important to understand that the law does not require the AGENCY to find a replacement for a business operation. The AGENCY will offer assistance but ultimately it is the business owner's responsibility to locate a suitable replacement site.

Moving Expenses

What are my moving options?

You may move yourself, be professionally moved, or choose a combination of both.

If you choose to move yourself, the amount the AGENCY pays you for your move will be based upon moving estimates. In most instances, the AGENCY will secure three moving estimates from professional movers to determine the reasonable and necessary amount for moving your operation.

Alternatively, if you meet certain requirements, you may select a fixed payment move that is based upon your average annual net earnings for the last two years. The maximum payment is \$20,000 and the minimum payment is \$1,000. (See "What is the fixed payment?") Landlords are not eligible to receive the fixed payment.

What types of relocation payments are businesses entitled to receive?

Relocation payments are broken down into four types listed below.

1. Direct Moving Expenses,
2. Reestablishment Expenses,
3. Related Moving Expenses, or
4. Fixed Moving Payment.

What costs are reimbursable as "direct moving expenses?"

Eligible expenses for moving personal property include:

- Transportation costs for a distance up to 50 miles.
- Packing, crating, unpacking, and uncrating.
- Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property.
- Modifications to personal property required by code.
- Professional services to determine suitability prior to the purchase/lease of a replacement site.
- Impact fees and onetime assessments.
- Utility connection from right of way (not related to personal property).

Packing and crating includes only the work necessary to accomplish the move of the personal property. This may include the cost necessary to box, bundle, or palletize the personal property.

Reinstallation of equipment includes connection to utilities. This may include installing utilities from the relocated equipment to the box or meter depending upon your particular situation. Reinstallation also includes

modifications to the equipment necessary to adapt it to the replacement structure, site, or utilities, or adapting the utilities at the replacement site to the relocated equipment.

What expenses are not reimbursable as “direct moving expenses?”

Modifications or improvements made to the replacement real property are not reimbursable as direct moving expenses (see reestablishment expenses).

Reestablishment Expenses

What are reestablishment expenses?

You may be eligible to receive a payment, not to exceed \$50,000, for all expenses actually incurred in relocating and reestablishing your operation. These may include, but are not limited to, the following:

- Repairs or improvements to the replacement real property as required by federal, state, local law, code, or ordinance.
- Modifications to the replacement real property to accommodate the business operation or make replacement structure suitable for conducting the business.
- Construction and installation costs for exterior signing to advertise the business.
- Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
- Advertisement of replacement location.
- Estimated increased two years at the replacement site for such items as:
 - a. Lease or rental charges,
 - b. Personal or real property taxes,
 - c. Insurance premiums,
 - d. Utility charges, excluding impact fees.

Note: Payment of reestablishment entitlements cannot be made to a part-time business in the home which does not contribute materially to the household income.

Related Moving Expenses

The following items are related moving expenses:

Replacing Printed Materials and Business Items

Expenses to replace existing stocks of printed materials and business items made obsolete by the move that require an address or phone number change are eligible for reimbursement. This includes such items as invoices, stationery, business cards, and promotional items.

Search Expenses

You are entitled to reimbursement for expenses in searching for a replacement property not to exceed \$2,500. Expenses may include transportation, meals, and lodging when away from home; reasonable value of the time spent during search; fees paid to real estate specialists, brokers, or consultants to locate a replacement site exclusive of any fees or commissions related to the purchase of the site; time spent in obtaining permits and

attending zoning hearings; and time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

You will be required to document your search efforts in a site search log that will be provided by your relocation specialist.

Loss of Tangible Personal Property or Purchase of Substitute Personal Property

You may be eligible for a payment if personal property is abandoned or replaced as a result of your move or if you discontinue your operation.

Loss of Tangible Personal Property

If you choose to abandon an item of personal property rather than relocating the item, the payment is based upon the lesser of the cost to move the item, or the market value in place “as is,” less any proceeds from the sale of the item.

Substitute Personal Property

If you choose to promptly replace an item of personal property rather than relocating the item, the payment is the lesser of the cost to move the item, or the cost of providing the substitute item, less any proceeds from the sale of the item.

Your relocation specialist will explain these procedures in greater detail if you are faced with this situation.

Insurance for the Move

Your property may be insured for its full replacement value (over and above the mover’s standard coverage) in connection with the move.

Licenses, Permits, and Certificates

Licenses, permits, or certification requirements that are eligible for reimbursement are those that are required to operate the business. The payment will be based upon the remaining useful life of the existing license, permit, or certification. Eligible expenses do not include general occupancy licenses, occupancy permits, building permits, or onetime assessments that any business would have to pay for occupancy of the property.

Planning Expenses

Depending on the complexity of your move, you may wish to hire a professional to help with planning the move of your personal property.

Planning expenses include only those expenses necessary to plan the move, placement, and layout of the personal property and must be supported by documentation, i.e., floor plan layout, log of work performed, etc. You will want to secure a scope of work from your planner and get preapproval of expenses prior to entering into a contractual obligation.

Supervision Expenses

Supervision expenses include reimbursement for your time to supervise the move. Supervision is sometimes necessary to direct the placement of personal property and to facilitate the moving process. Your time to

supervise the move (does not include planning) is limited to no more than the length of time it would take a professional mover to complete the actual physical move. All expenses must be actual, reasonable, and necessary, as determined by the AGENCY.

Temporary Storage

You may be eligible for the cost to store your personal property in a commercial storage facility. Storage expenses will be reimbursed if they are considered reasonable and necessary by the AGENCY. Storage must be preapproved and is limited to 12 months.

Fixed Moving Payment

What is the “Fixed Moving Payment?”

A “Fixed Moving Payment” provides an option for moving expense based on the net earnings of your business.

If you choose the fixed moving payment option you will be ineligible to receive reimbursement for any other relocation expenses. For this reason this benefit is often referred as an “In Lieu” payment.

For you to be eligible for a fixed payment, your operation must move and you must meet the following requirements:

- You must have personal property to move and you actually move from the displacement site.
- You cannot be relocated without a substantial loss of existing patronage.
- Your operation is not operated at the displacement site solely for the purpose of renting a dwelling or site to others.
- Your operation must have contributed materially to your income during the two taxable years prior to displacement.
- Your business is not part of a commercial enterprise having more than three other entities which are not being acquired by the AGENCY, and which are under the same ownership and engaged in the same or similar business activities.

How is the “Fixed Moving Payment” calculated?

The fixed payment is based upon the average annual net earnings of your operation for two taxable years immediately preceding the taxable year in which you were displaced.

The minimum fixed payment is \$1,000 and the maximum fixed payment cannot exceed \$20,000. The actual amount of the fixed payment will be based on actual net earnings.

Example:

2003	2004	2005
Annual Net Earnings	Annual Net Earnings	Year Displaced
\$8,000	\$10,000	
Average		
\$9,000 = Fixed Payment		

You must provide information to the AGENCY to support your claim. Proof of net earnings can be documented by providing copies of income tax information as reported to the IRS.

For a nonprofit organization, the amount of the fixed payment is based on the average of two years annual gross revenues less administrative expenses.

Finally . . .

What are some relocation expenses that are not reimbursable?

- The cost of moving items not considered to be personal property.
The AGENCY cannot pay you to move any items considered to be part of the real estate or any personal property or real estate purchased by the AGENCY as part of the real estate acquisition.
- Loss of business, profits, good will, or trained employees (includes loss due to downtime).
- Personal injury.
- Additional operating expenses because of operating in a new location except as provided for as reestablishment expenses.
- Any legal fee or other cost for preparing a claim for a relocation payment or for any appeal of your relocation benefits.
- Physical changes to real property at the replacement location except as provided for as reestablishment expenses.
- Costs for storage on real property already owned or leased by you.

AGENCY Title VI Notice to Public

The AGENCY hereby gives notice that it is the policy of the AGENCY to ensure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, sex, national origin, disability, age, or religion, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the AGENCY receives federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has the right to file a formal complaint with the AGENCY. Any such complaint must be in writing and filed with the AGENCY Title VI Specialist within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from this office at no cost to the complainant by calling (360) 705-7083.

Your Right of Appeal

You may file your appeal with the Relocation Program Manager, if you believe that the AGENCY has failed to properly determine your eligibility for or the amount of your payment authorized by the Uniform Act.

To appeal a determination by the AGENCY, your appeal must be in writing. The letter must clearly state what you are claiming. If you indicate your dissatisfaction in writing to the AGENCY's Relocation Program manager, the AGENCY will assist you in filing an appeal and will explain the procedures to be followed. The AGENCY will review your appeal. If your appeal is rejected, you may then present an appeal in a formal hearing. You have the right, but are not required, to be represented by legal counsel or other representative in connection with the appeal.

The letter and any supporting documents are mailed to:

Name

Title

Agency

City, State, Zip

The AGENCY will provide you a written determination resulting from the appeal with an explanation of the basis for the decision. If you are still dissatisfied with the relief granted, you may then seek judicial review.